

## Chapter 25.63 INCLUSIONARY HOUSING

### 25.63.010 Purpose.

(a) The purpose of the inclusionary housing requirements is to increase the housing supply for households that have very low, lower and moderate incomes compared to the median household income for San Mateo County. The primary objective is to create actual housing units, either rental or “for purchase” units, rather than equivalent fees or cash. The affordability requirements associated with residential development projects are a form of “inclusionary zoning.” This chapter establishes the inclusionary housing program. The program is also implemented through guidelines as adopted and amended from time to time by the city council.

(b) The city does not have density limits within the R-3 and R-4 districts in this title. Instead, property owners are free to build dwelling units, so long as they conform to the other development standards of the title. Therefore, the city is not able to provide a density incentive, but must instead provide incentives with regard to height, open space, and parking requirements. (Ord. 1714 § 2, (2003))

### 25.63.015 Definitions.

Whenever the following terms are used in this chapter, they shall have the meaning established by this section:

“Affordable dwelling unit” means a dwelling unit for which either the rent or lease amount to be charged or the sale price is at or below the amounts specified for affordability for persons and families of moderate income, as defined in Sections 50052.5 and 50053 of the California Health and Safety Code.

“Residential development” means any new residential construction of rental or for-sale units; or development revisions, including those with and without a master plan or specific plan, planned unit developments, site development plans, mobilehome developments, and conversions of apartments to condominiums, as well as dwelling units for which the cost of shelter is included in a recurring payment for expenses, whether or not an initial lump sum fee is also require. (Ord. 1714 § 2, (2003))

### 25.63.020 Residential development projects.

(a) Applicability. This chapter shall apply to conditional use permits, conditional development permits, planned development permits, subdivision approvals, architectural control approvals, variance approvals, and construction permits for any residential development project of four (4) or more units on a single parcel. If the city determines that a person has subdivided property to avoid the applicability of this chapter, the

developer shall be subject to the chapter. This chapter also applies to condominium conversions.

(b) Requirements. Any developer of a project subject to this chapter shall provide not less than the following:

<b>Number of Dwelling Units in Project</b>	<b>Number of Affordable Dwelling Units Required</b>
1 to 3	0
4 to 12	1
Over 12	One unit for every 10 dwelling units (fraction will be rounded up)

(c) Review Process. As part of an application for a residential development project subject to this chapter, the developer shall submit a below market rate housing program plan. The plan shall describe in detail the developer's proposal for meeting the requirements of this chapter.

(d) Permits. No construction or building permit or other land use authorization may be issued or approved for a residential development unless the requirements of this chapter have been met. (Ord. 1714 § 2, (2003))

#### 25.63.030 Incentives for development projects.

(a) Generally. The provisions of this section shall apply to residential developments that provide one or more affordable dwelling units in accordance with the provisions of this chapter.

(b) Incentives. To meet the requirements of this chapter, a developer may use two (2) of the following incentives or their equivalents as determined by the planning commission:

(1) A height for structures of forty-six (46) feet in height or less without a conditional use permit pursuant to Section 25.32.030 or as applied to Chapter 25.34 or pursuant to Section 25.40.025; or

(2) Reduction of common open space in the rear yard of a residential development by up to fifty (50) percent or

two hundred (200) square feet, whichever is more, without necessity of a variance, so long as no dimension of the common open space provided is less than ten (10) feet in any direction; or

(3) If the development requires provision of more than ten (10) on-site parking spaces, allowance of up to fifty (50) percent of the required parking as compact parking stalls as defined in Chapter 25.70 without necessity of a variance.

(c) Additional Incentives.

(1) If the developer or applicant is willing to enter into agreement to extend the affordability of the units subject to this chapter from ten (10) years to thirty (30) years, the required parking can be reduced by one space per affordable dwelling unit provided pursuant to this chapter, but this provision only applies to affordable dwelling units that are studios or one bedrooms.

(2) If the developer or applicant is willing to enter into an agreement to make all required affordable dwelling units in the project affordable to very low income or low income households for the duration of the thirty (30) years, the required parking can be reduced to one space per one-bedroom unit for all of the one-bedroom and studio dwelling units in the proposed project. (Ord. 1714 § 2, (2003); Ord. 1764 § 4 (part), (2005))

[25.63.040 Affordable housing development standards.](#)

The affordable housing standards are as follows:

(a) Concurrent Construction. The required affordable dwelling units shall be constructed concurrently with market-rate units unless both the final decision-making authority of the city and developer agree within the affordable housing agreement to an alternative schedule for development.

(b) Design. The design and construction of the affordable dwelling units shall be consistent with general plan standards; compatible with the design, unit layout, and construction of the total project development in terms of appearance, construction materials, unit layout, and finished quality and conform to general plan standards; and consistent with affordable residential development standards that may be prepared by the planning department as adopted by the city council.

(c) Minimum Dwelling Unit Size. To qualify as affordable dwelling units under this chapter, the affordable dwelling units shall meet the following minimum size requirements, excluding common areas, storage units, and assigned parking areas or spaces:

<b>Type of Unit</b>	<b>Minimum Size</b>
Studio	500 square feet
One-bedroom	650 square feet
Two-bedroom	800 square feet

(d) Sale of Affordable Dwelling Unit. Any sale of an individual affordable dwelling unit governed by this chapter shall require continuous occupancy by the owner of the dwelling unit. (Ord. 1714 § 2, (2003))

[25.63.045 Maintenance of affordability.](#)

(a) Base Resale Price. The price at which the owner purchased the affordable unit shall be adjusted by the percentage increase or decrease in the median annual income at one hundred (100) percent of median of a family of four (4) in San Mateo County. The percentage increase or decrease shall be computed for the period that the affordable unit has been held by owner. This adjusted price shall be increased by the market value, if any, of any documented, permanent capital real estate or fixed improvements approved by the city. No price adjustment will be made except upon presentation to the city of written documentation of all expenditures made by the owner for which an adjustment is requested. The adjusted price shall be decreased by the amount necessary to repair any damages and to put the unit into a sellable condition, including items such as paint, cleaning, construction repairs, and to bring the unit into conformity with all applicable provisions of this code and the affordable housing guidelines that may be established by the city. The value of price adjustments shall be reasonably determined by the city. The resulting price shall be the base resale price of the unit.

(b) No affordable dwelling unit subject to this chapter and the agreement provided under this chapter shall be rented, leased, or sold except in accordance with this chapter and the governing agreement. (Ord. 1714 § 2, (2003))

[25.63.050 Length of affordability.](#)

An affordable dwelling unit provided pursuant to this chapter shall be kept affordable for a period of at least ten (10) years. If more than two (2) incentives are requested and

approved for a residential development or if Section 25.63.030(c) applies, the affected affordable dwelling units shall be kept affordable for a period of at least thirty (30) years. (Ord. 1714 § 2, (2003))

25.63.060 Agreement required.

(a) The affordability required by this chapter shall be established by an agreement between the city and the developer and be binding on the heirs, successors and assigns of the developer.

(b) The agreement shall not be amended without the approval of the planning commission, and should any matter of substance be affected, the review of the proposed amendment to the agreement shall be subject to all substantive and procedural requirements of this chapter. (Ord. 1714 § 2, (2003))

25.63.070 Sales contracts and agreements.

Nothing contained in this chapter shall be interpreted to prevent or prohibit persons from entering into any contract or agreement for sale or acquisition, such as a contract or agreement or other arrangement, that provides for a first right of refusal upon sale of a dwelling unit, for equity sharing, for a right of reentry, or for other means by which a developer or owner of the dwelling unit seeks to secure its investment and a fair return while at the same time ensuring the affordability of the unit in conformance with this chapter. The city intends to only affect the freely transferable rights in real property insofar as reasonably necessary as defined in this chapter. (Ord. 1720 § 2, (2003))